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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/741,301

12/19/2000

John H. Roop

ST/010 Cont 3

5667

7590

09/22/2004

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EXAMINER

HOYE, MICHAEL W

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/741,301

Applicant(s)

ROOP ET AL.

Examiner

Michael W. Hoyer

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 (based on a provisional rejection) is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/19/00 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-17 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8, 10-14, 16, 15 and 17-18, of U.S. Patent No. 6,216,265, respectively. Although the conflicting claims are not identical, they are not patentably distinct from each other. Claims 1-17 and claims 1-8, 10-14, 16, 15 and 17-18, of USPN 6,216,265, are both directed to a method of displaying and updating television schedule information data in a television schedule information transmission system having a central data processing system and a plurality of subscriber systems. The claimed "updating" in the preamble of the application claim is an obvious broader equivalent of the claimed "compiling" in the patent and the body of each claim is almost the same. The claimed receiving the television schedule information data and instructions related to the television schedule information data for one or more of the plurality of subscriber systems via a television telecast signal of claim 1 equates to receiving the television broadcast signal in the form of commands including

Art Unit: 2614

instructions for the microprocessor and television schedule information data of patented claim 1. The claimed extracting a portion of the television schedule information data from the television telecast signal responsive to the received instructions equates to extracting a portion of the television schedule information data from the television broadcast signal responsive to the instructions included in the commands of patented claim 1. The claimed storing the portion of the television schedule information data in a memory at the one or more of the plurality of subscriber systems equates to storing the portion of the television schedule information data in a database residing in the memory as database items, wherein each of the database items has a handle as an index into a handle table in the database identifying memory locations corresponding to the handle, the handle table being used by a computer program to reference the memory locations of patented claim 1. The claimed preparing portions of the television schedule information data responsive to at least one of the received instructions equates to assembling portions of the television schedule information data responsive to the instructions included in the commands of patented claim 1. The claimed displaying the portions of the television schedule information data on a display monitor equates to displaying the portions of the television schedule information data on the display monitor of patented claim 1. Claim 1 differs from patented claim 1 in that the claim is slightly broader in scope as described in the preamble of the claim. Patented claim 1 further claims in the preamble, "wherein the television schedule information data is transmitted to each of such subscriber data processing systems in a television broadcast signal and wherein, each of such subscriber data processing systems has a microprocessor, a memory, and a display monitor. Although the patented claim preamble is slightly more detailed than claim 1 of the application. Claim 1 discloses all of the additional

Art Unit: 2614

information within the body of the claim. The minor variation in wording does not affect the scope of the claimed method and it would have been obvious to one of ordinary skill in the art to have made the minor variations in the claim as described above. The portion of the specification in patent 6,216,265 that supports "updating" television schedule information data...that would anticipate claim 1 is met by col. 10, lines 10-24 and col. 32, lines 40-46.

Dependent claims 2-17 equate to patented claims 2-8, 10-14, 16, 15 and 17-18, of USPN 6,216,265, respectively.

Claim 18 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 20 of U.S. Patent No. 6,216,265. Although the conflicting claims are not identical, they are not patentably distinct from each other. Claim 18 and claim 20 of USPN 6,216,265, are both directed to a system for displaying and updating television schedule information data in a subscriber system included in a television schedule information transmission system having a central data processing system and a plurality of subscriber systems. The claimed "updating" in the preamble of the application claim is an obvious broader equivalent of the claimed "compiling" in the patent and the body of each claim is similar. The claimed microprocessor at each of the plurality of subscriber systems of claim 18 equates to the microprocessor of patented claim 20. The claimed decoder at each of the plurality of subscriber systems for receiving the television schedule information data and instructions related to the television schedule information data for one or more of the plurality of subscriber systems via a television telecast signal of claim 18 equates to the means for receiving the television broadcast signal in the form of commands including instructions for the microprocessor and television schedule information data of patented claim 20. The claimed

Art Unit: 2614

means for extracting at least a portions of the television schedule information data from the television telecast signal responsive to the instructions included in the instructions of claim 18 equates to the means for extracting at least a portion of the television schedule information data from the television broadcast signal responsive to the instructions included in the commands. The claimed memory for storing the at least a portion of the television schedule information data of claim 18 equates to the memory, as well as, the claimed means for storing... of patented claim 20. The claimed code for the microprocessor for preparing portions of the television schedule information data responsive to the instructions included in the instructions of claim 18 equates to the claimed means for assembling portions of the television schedule information data responsive to the instructions included in the commands of patented claim 20. The claimed display for displaying the portions of the television schedule information data on the display monitor of claim 18 equates to the display, as well as, the claimed means for displaying the portions of the television schedule information data on the display monitor of patented claim 20. Patented claim 20 is slightly narrower than claim 18 of the application. The minor variation in wording does not affect the scope of the claimed system/apparatus and it would have been obvious to one of ordinary skill in the art to have made the minor variations in the claim as described above.

***Allowable Subject Matter***

3. The following is a statement of reasons for the indication of allowable subject matter: The prior art, alone or in combination does not teach or fairly suggest the claimed method and system of claims 1-24 for displaying an updating television schedule information data in a television schedule information transmission system.

Art Unit: 2614

As for the prior art, the Hallenbeck (USPN 5,038,211) reference discloses a television program information system that extracts from a broadcast datastream of television program information only the program information for shows which meet predetermined selection criteria and stores only the extracted information. Hallenbeck does not store all broadcast television information, and less information may be provided regarding programs in the schedule, whereas in the applicants' claimed invention the subscriber systems extract..., store..., prepare..., and display... portions of the television schedule information data according to instructions received via the television broadcast signal in order to allow for a more complete displaying of television schedule information according to broadcast instructions and improved use of memory at the subscriber stations. Therefore, the reference fails to teach or suggest that which is noted above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael W. Hoyer whose telephone number is (703) 305-6954. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller, can be reached at (703) 305-4795.

**Any response to this action should be mailed to:**

Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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Art Unit: 2614

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA, Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to customer service whose telephone number is **(703) 308-HELP**.

Michael W. Hoyer  
September 7, 2004

  
JOHN MILLER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600